IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:97-CR-94-6H

MICHAEL SCOTT MCRAE,   )
)
        Petitioner,   )
)
)
        v.   )   **ORDER**
)
)
UNITED STATES OF AMERICA,   )
)
        Respondent.   )

This matter is before the court on numerous motions and letters that petitioner has filed with this court seeking various types of relief from his judgment. A review of these motions reveals that all the motions seek to have petitioner's sentence reduced and/or vacated for various reasons, including ineffective assistance of counsel, drug type and quantity issues and failure to run the sentence concurrently with his state sentence.[1] The motions also seek appointment of counsel to assist petitioner with his motions.
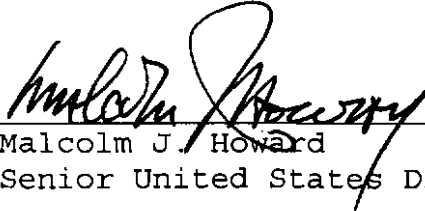
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[1] The court notes that the judgment in petitioner's case orders that his federal sentence of life imprisonment run concurrently with the sentence entered by the Cumberland County Sentence Docket #94-CR5-35021. While petitioner may have completed his state sentence, he obviously has not completed his concurrent federal sentence of life. See Judgment [DE #229].

The court has reviewed these motions and letters and finds that these matters have already been considered and rejected or could have been raised on direct appeal and cannot now be asserted in collateral proceedings. Stone v. Powell, 428 U.S. 465, 477 (1976).

To the extent any of the claims could be construed as raising issues that are not procedurally defaulted, such claims need to be raised, if at all, in a motion to vacate pursuant to 28 U.S.C. § 2255. Because petitioner has already filed a § 2255 motion, he is barred from bringing another § 2255 motion in this court absent certification by a panel of the Fourth Circuit Court of Appeals in accordance with 28 U.S.C. § 2255(h).

For the foregoing reasons, petitioner's motions are DENIED. The clerk is directed to terminate all pending motions in petitioner's case.

This __7th__ day of November 2011.

Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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